

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 FEA-01 ACDA-07 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00

DOT-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-02

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

SAL-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 /158 W

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P 171244Z AUG 76

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 8694

C O N F I D E N T I A L USUN 3268

FROM: LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: INFORMAL PLENARY ON DISPUTE SETTLEMENT

AUGUST 13

1. INFORMAL PLENARY AUGUST 13 TOOK UP ART. 10, PART IV,
RSNT (EXTENT OF JURISDICTION).

2. MOST SPEAKERS, INCLUDING NETHERLANDS, POLAND, VENEZULA,
URUGUAY, UK, ISRAEL, BULGARIA, BYELORUSSIAN SSR, FRG,
ARGENTINA AND ALGERIA PREFERRED TO DELETE THE ARTICLE IN
ITS ENTIRETY AS REDUNDANT AND CONFUSING. SPAIN, QATAR,
EL SALVADOR, BAHRAIN, AND SWITZERLAND AGREED THAT MUCH OF
ART. 10 WAS REDUNDANT AND THAT IT SHOULD BE SHORTENED
CONSIDERABLY TO A GENERAL STATEMENT OF JURISDICTION. MANY
OF THESE SPEAKERS EXPRESSED RESERVATIONS CONCERNING APPEALS
FROM SPECIAL PROCEDURES (ART. 10, PARA. 2), ALTHOUGH QATAR
AND ISRAEL URGED ADDITION OF "NEW EVIDENCE" AS GROUND FOR
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APPEAL AND SWITZERLAND SUGGESTED "LACK OF COMPETENCE" AS

ADDITIONAL GROUND FOR APPEAL.

3. TUNISIA URGED POSTPONING CONSIDERATION OF ARTICLE 10 BECAUSE IT PREJUDGED NATURE OF SPECIAL PROCEDURES AND RELATIONSHIP OF SEABEDS TRIBUNAL TO GENERAL PROCEDURES. VENEZUELA DID NOT WISH PART IV PROCEDURES TO DEROGATE FROM SEABEDS TRIBUNAL. EL SALVADOR POINTED OUT THAT APPEALS FROM SPECIAL PROCEDURES WOULD BE UNNECESARY IF SPECIAL PROCEDURES ARE TO GIVE FINAL DECISIONS ON BOTH LAW AND FACT AND THAT, IF TWO TRIBUNALS ARE ESTABLISHED, RESOLUTION OF A CONFLICT OF COMPETENCE SHOULD BE CLEARLY PROVIDED FOR. EL SALVADOR WISHED TO RETAIN GENERAL JURISDICTIONAL CLAUSE AND SPECIFIC CLAUSE FOR USE OF PROCEDURES PURSUANT TO INTERNATIONAL AGREEMENT RELATING TO PURPOSES OF LOS CONVENTION.

4. US NOTED NEED FOR CAUTION BEFORE DELETING AN ENTIRE ARTICLE ON GROUNDS OF REDUNDANCY AND PARTICULARLY AMBIGUITY. US AGREED WITH TUNISIA THAT EXTENT TO WHICH ASPECTS OF ART. 10 WOULD BE NECESSARY DEPENDS ON RELATIONSHIP BETWEEN TRIBUNALS AND REVISIONS TO SPECIAL PROCEDURES, WHICH HAD NOT YET BEEN DETERMINED. US WAS NOT SATISFIED THAT ALL CLAUSES WERE REDUNDANT, MENTIONING IN PARTICULAR PARAS. 1(E) AND 1(F), AND NOTED THAT ART. 10 WAS CROSS REFERENCED ELSEWHERE IN PART IV (I.E. ART. 22 OF THE LOS TRIBUNAL STATUTE). US SAID THE NEED FOR THIS ARTICLE SHOULD BE CAREFULLY REVIEWED IN LIGHT OF THE FULL SYSTEM AGREED UPON.
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